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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,938	07/25/2003	Upendra V. Chaudhari	YOR920030133US1 (16595)	3668
23389	7590	08/11/2006	EXAMINER	
SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530			PERUNGAVOOR, VENKATANARAY	
			ART UNIT	PAPER NUMBER
			2132	

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/627,938

Applicant(s)

CHAUDHARI ET AL.

Examiner

Venkat Perungavoor

Art Unit

2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 7, 8, 15 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

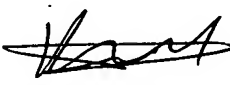
**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
KAMBIZ ZAND  
PRIMARY EXAMINER

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 9-14, 17-20 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Publication 20050043096 A1 to Kerr with priority under 119(e) based on Provisional Application No. 60266856.
3. Regarding Claim 1, 11, 18, Kerr discloses the enrollment stage having applying a stimulus to the user for identification and detecting the user's response see Par. 0089-0093; generating a model for the user's response and storing that model in a database see Par.0094-0096; presenting stimulus and detecting the user's response see Par. 0098-0101; comparing of response with the one stored in the database see Par. 0103; determining whether user is same match and the validity see Par.0104. Kerr further discloses biometric input being psychological/behavioral see Par. 0020-0022.

4. Regarding Claim 2, 12, Kerr discloses the stimulus being voice(audio), hand geometry and vein patterns(visual) see Par. 0020-0022.
5. Regarding Claim 3, Kerr discloses the voice patterns being analyzed see Par. 0093 & Par.0060.
6. Regarding Claim 4 and 5, 13 and 14, Kerr discloses the psychological test and detection of user's behavioral and physical characteristics see Par.0059 & Par.0093.
7. Regarding Claim 9 and 10, 17, Kerr discloses the user's response to stimuli being compared for consistency in response and updated; and the correlation between the stored and the received responses see Par. 0072 & Par.0111 & Par. 0114.
8. Regarding Claim 19 and 20, Kerr discloses the presentation of stimulus and generating a response and measuring the closeness of the received match with one stored in database see Par. 0125-0129.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent Publication 20050043096 A1 to Kerr in view of U.S. Patent 5696964 to Cox et al.(hereinafter Cox).

11. Regarding Claim 6, Kerr does not disclose visual emotional cues. However, Cox discloses the image being present to illicit the response see Fig. 10 item 1030. It would be obvious to one having ordinary skill in the art at the time of the invention to include the image being present to illicit the response in the invention of Kerr in order to gain the response of user thorough trial as taught Cox see Col 3 Ln 39-57.

***Allowable Subject Matter***

12. Claims 7-8, 15-16, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Although EEG and polygraph test are well known, the use of these metrics in determining identity is not found in prior art.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 2005/0262086 A1 to Tu et al.

U.S. Patent 2004/0177030 A1 to Shoham

U.S. Patent 2003/0154406 A1 to Honavar


U.S. Patent 2002/0147509 A1 to Sameshima

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Venkat Perungavoor whose telephone number is 571-272-7213. The examiner can normally be reached on 8-4:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

VP  
8/7/2006

  
KAMBIZ ZAND  
PRIMARY EXAMINER

Venkat Perungavoor  
Examiner  
Art Unit 2132